

REMARKS/ARGUMENTS

In the Office Action mailed May 3, 2006, claims 1-56 were rejected. Applicant has thoroughly reviewed the outstanding Office Action, including the Examiner's remarks and the references cited therein. The above claim amendments and following remarks are believed to be fully responsive to the Office Action. All of the pending claims at issue are believed to be patentable over the cited reference.

Claims 9, 23, 35, 45-46, 48, and 53-55 have been cancelled without prejudice or disclaimer of the subject matter recited therein and have not been cancelled in view of any prior art. Claims 1, 20, 24, 27, 29, 36, 47, 49, 50, and 52 have been amended to more particularly point out and distinctly claim certain embodiments of the present invention. Support for the subject matter added to claims 1, 20, 24, 27, 29, 36, 47, 49, and 50 may be found throughout the specification and figures of the present application, for example, in FIG. 8. No new matter has been added. Upon entry of the present Amendment, claims 1-8, 10-22, 24-34, 36-44, 47, 49-52, and 56 will be pending.

Objection to the Drawings:

The drawings have been objected to under 37 CFR 1.83(a). The cancellation of claims 9, 23, 35, 45-46, 48 and 53-55 directly addresses the Examiner's comments and renders this objection moot. At least in view of the above claim amendments and remarks, reconsideration and withdrawal of the objection to the drawings under 37 CFR 1.83(a) is respectfully requested.

Rejection of Claims 23, 27, and 54 under 35 U.S.C. §112, Second Paragraph:

Claims 23, 27, and 54 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The cancellation of claims 23 and 54, along with the amendment of claim 27, directly addresses the Examiner's comments and renders this rejection moot. At least in view of the above claim amendments and remarks, reconsideration and withdrawal of the rejection of claims 23, 27, and 54 were rejected under 35 U.S.C. §112, second paragraph, is respectfully requested.

Rejection of Claims 1-11, 13-22, 25-34, 42-44, and 56 Under 35 U.S.C. §102(b):

Claims 1-11, 13-22, 25-34, 42-44, and 56 were rejected under 35 U.S.C. §102(b) as being anticipated over U.S. Patent No. 5,185,977 to Brockman et al. (Brockman '977). This rejection is respectfully traversed.

As stated in M.P.E.P. §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In the present instance, the alleged prior art reference is Brockman '977 which, as is discussed below, fails to disclose the elements recited in claims 4-8 of the present application.

Brockman '977 discloses, in the title thereof, a storage terminal shelter, including side curtain assembly for truck/trailer hinge gap closure. Brockman '977 also discloses in FIGS. 2-5, a spring loaded joint 230 positioned adjacent to a shelter side frame 150.

However, Brockman '977 fails to disclose at least a "first panel [that] is adapted for essentially pivotal movement relative to the front face of the dock wall," as recited in claims 1-

11, 13-19, 42-43, and 56 of the present application. Brockman '977 also fails to disclose at least a "first panel [that] is adapted to be mountable to and pivotally moveable relative to the front face of the dock wall," as recited in claims 20-22, and 25-26 of the present application. In addition, Brockman '977 also fails to disclose at least a "rear edge of said rear first panel [that] is adapted for essentially pivotal movement relative to the front face of the dock wall," as recited in claims 27 and 28 of the present application. Further, Brockman '977 also fails to disclose at least a "first panel means [that] is pivotably mountable to the front face of the dock wall," as recited in claims 29-34 of the present application. Even further, Brockman '977 also fails to disclose at least a "first panel [that] is mountable to the front face of the dock wall," as recited in claim 44 of the present application. Brockman '977 therefore fails to anticipate the subject matter recited in claims 1-11, 13-22, 25-34, 42-44, and 56 of the present application at least in view of the above-listed shortcomings.

At least in view of the foregoing remarks, reconsideration and withdrawal of the rejection of claims 1-11, 13-22, 25-34, 42-44, and 56 under 35 U.S.C. § 102(b) as being anticipated by Brockman '977 is respectfully requested.

Rejection of Claims 50-52 Under 35 U.S.C. §102(b):

Claims 50-52 were rejected under 35 U.S.C. §102(b) as being anticipated over U.S. Patent No. 6,948,285 to Miller et al. (Miller '285). This rejection is respectfully traversed.

As discussed above, M.P.E.P. §2131 states that, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In the present instance, the alleged prior art

reference is Miller '285 which, as is discussed below, fails to disclose the elements recited in claims 50-52 of the present application.

Miller '285 discloses, in the title thereof, a loading dock shelter with hollow side or head members. Miller '285 also discloses in FIGS. 2-6 thereof, a panel 28 fixedly mounted to a wall 22.

However, Miller '285 fails to disclose at least a "first panel [that] is adapted for essentially pivotable movement relative to a front face of the dock wall," as recited in claims 50-52 of the present application. Miller '285 therefore fails to anticipate the subject matter recited in claims 50-52 of the present application at least in view of the above-listed shortcomings.

At least in view of the foregoing remarks, reconsideration and withdrawal of the rejection of claims 50-52 under 35 U.S.C. § 102(b) as being anticipated by Miller '285 is respectfully requested.

Rejection of Claims 37-40 Under 35 U.S.C. §103(a):

Claims 37-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brockman '977. This rejection is respectfully traversed.

It is alleged in the Office Action that Brockman '977 discloses all of the claimed limitations included in claims 37-40 and that the claimed method steps would have been obvious. However, contrary to this allegation, Brockman '977 actually fails to disclose or suggest at least, "flexibly mounting the second rear panel to the front face of the dock wall," as recited in claims 37-40 of the present application. Rather, as discussed above, Brockman '977 discloses a spring loaded joint 230 positioned adjacent to a shelter side frame 150. At least for this reason, the above-discussed allegation is incorrect and Brockman '977 fails to render the claimed invention unpatentable.

At least in view of the foregoing remarks, reconsideration and withdrawal of the rejection of claims 37-40 under 35 U.S.C. §103(a) as being unpatentable over Brockman '977 is respectfully requested.

Rejection of Claims 37-41 and 44 Under 35 U.S.C. §103(a):

Claims 37-41 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,341,613 to Brockman et al. (Brockerman '613) in view of U.S. Patent No. 4,070,801 to O'Neal (O'Neal '801). This rejection is respectfully traversed.

In FIG. 5 thereof, Brockerman '613 discloses a shelter frame 150 that is fixedly attached to a wall. O'Neal '801, in FIG. 1 thereof, discloses a panel 14 that is also fixedly attached to a wall 10. However, neither Brockerman '613 nor O'Neal '801 discloses at least, "flexibly mounting the second rear panel to the front face of the dock wall," as recited in claims 37-41 and 44 of the present application. As such, Brockerman '613 and O'Neal '801, taken either individually or in combination, fail to disclose all of the elements recited in claims 37-41 and 44 of the present application and therefore fail to render any of these claims unpatentable.

At least in view of the foregoing remarks, reconsideration and withdrawal of the rejection of claims 37-41 and 44 under 35 U.S.C. §103(a) as being unpatentable over Brockerman '613 and O'Neal '801 is respectfully requested.

Rejections of claims 12, 23-24, 35-36, 42, 45-49, and 53-55 under 35 U.S.C. §103(a):

Claims 12, 23-24, 35-36, 42, 45-49, and 53-55 have each been rejected under 35 U.S.C. §103(a) under one or more cited references. Each of these rejections is respectfully traversed.

Claims 12, 23-24, 35-36, 42, 45-49, and 53-55 each depend upon and incorporate all of the subject matter recited either in claim 1, 20, 29, 37, or 50, of the present application. As such,

each of claims 12, 23-24, 35-36, 42, 45-49, and 53-55 are patentable at least for the reasons discussed in connection with either claim 1, 20, 29, 37, or 50.

At least in view of the foregoing remarks, reconsideration and withdrawal of all of the rejection of claims 12, 23-24, 35-36, 42, 45-49, and 53-55 under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

At least in view of the foregoing claim amendments and remarks, Applicant respectfully requests all of the rejections to the claims be removed. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1716 in an effort to resolve any matter still outstanding before issuing another action. The undersigned attorney is confident that any issue which might remain can readily be worked out by telephone.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 87353.2961.

Respectfully submitted,

BAKER & HOSTETLER LLP



Hermes M. Soyez
Reg. No. 45,852

Date: March 6, 2007
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Telephone: 202-861-1500
Facsimile: 202-861-1783